IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 229 OF 2006

M/s. Universal Pollution Control
(I) P.Ltd ...Petitioner
vs.
Regional Provident Fund
Commissioner and anr. ....Respondents

Mr. S.C. Naidu i/by. C.R. Naidu and Co.
for the petitioner.
Mangesh Patel i/by. P.V. Nelson Rajan
for respondent no.1.

CORAM: S.U. KAMDAR, J.
DATED: 20TH MARCH,2006.

P.C. :

1. The present petition is filed challenging the order seeking to recover from the petitioner an amount

of Rs.9,49,267/- and Rs.3,23,802/- towards interest. There is no dispute that the said amount is due and payable by the company known as Universal Fans Ltd The petitioner company is known as Universal Pollution Control (I) P.Ltd. the liability is not of the petitioner company. Under the companies Act each of the company is a separate legal entity and recovery of the dues of one company cannot be recovered from another company.

2. The only aground on which recovery is sought to be made is that the two directors of the company were common and that the petitioner had issued a cheques when the goods of the petitioner were seized by the Provident Fund Authorities in respect of the liabilitties of Provident Fund dues of Universal Fans Ltd. There is also no dispute that the both the companies are seperately registered with the Provident Fund Office. The Universal Fans Ltd is registered under Code No. MH-30902 whereas the petitioner company is registered under Code No. MH-36352. However it is contended that both companies are sister concern and therefore the petitioner are liable for

the said claim of the provident fund.

3. In the present case the conduct on the part of the advocate appearing for the respondent is far from satisfactory. The matter was on board on 14.2.2006 when the learned counsel for the Respondent Mr. Sundaram sought three weeks time. On 6.3.2006 once again the learned counsel appearing for the respondent sought time and the matter was thereafter listed on 7.3.2006. On 7.3.2006 since none appeared for the respondents I directed the office to issue notice to the advocate for the respondents that the matter will be finally heard and disposed off and the matter was adjourned to 13.3.2006. The learned advocate appering on 13.3.2006 once again pleaded for one weeks time and assured the court that he will appear personally on 20.3.2006,. Today the learned counsel who is appearing on behalf of Mr. Rajan states that his advocate is not available and thus adjournment should be granted. On the facts set out hereinabove I am not inclined to grant any adjournment.

4. On the affidavit which has been filed by the

respondent the only ground taken is that this court should lift the corporate veil and fasten the liability on the petitioners herein. The contention raised is without any merits and baseless. As mentioned above both the companies are seperate legal entity under the provisions of the Companies Act and there is no provision under the Provident Fund Act that a liability of one company can be fastened on the other company even by lifting the corporate veil. In that view of the matter the defence raised has no merits and thus rejected. In that light of the matter the impugned demand is unsustainable in law and accordingly the same is quashed and set aside. Petition is accordingly made absolute. No order as to costs.

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